IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 4TH DECEMBER 2006 / 13TH AGRAHAYANA 1928

Bail Appl..No. 6650 of 2006()

O.R. NO. 7/05 OF NARCOTIC CONTROL BUREAU,
REGIONAL INTELLIGENCE UNIT, THIRUVANATHAPURAM
AGAINST THE JUDGEMENT/ORDER IN BA.4863/2006 Dated 13/09/2006

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PETITIONER/2ND ACCUSED

MUHAMMED SHAFEEK RAHMAN @ SHAFEEK,
S/O. LATE MUHAMMED HAJI, K.M.HOUSE,
BEKKAL, PALUKKARA P.O., KASARGOD.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT & STATE

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1. INTELLIGENCE OFFICER,
NARCOTIC CONTROL BUREAU,
REGIONAL INTELLIGENCE UNIT, THIRUVANANTHAPURAM.

2. STATE, REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

SRI.P.G.THAMPY,DGP&SPL.PUBLIC PROSECUTOR
SRI.C.P.UDAYABHANU,SPL.P.P.FOR NCB

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 30-11-2006 THE COURT ON 4-12-2006 PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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B.A. No.6650 of 2006

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Dated, this the 4th day of December 2006

ORDER

The 2nd accused in O.R. No. 7/05 of Narctotic Control Bureau, Regional Intelligence Unit, Thiruvananthapuram, for offences punishable under Sections 21(c), 27(A), 28 and 29 of the N.D.P.S. Act, seeks in enlargement on bail. The petitioner and the first accused Ismayil who alighted from the Nethravathi Express at 6.20 a.m. on 19-11-2005 in Thiruvananthapuram Central Station were intercepted by the officials of the Regional Intelligence Unit of the Narcotics Control Bureau, Thiruvananthapuram who were acting on credible secret information received earlier. A search of the persons soon resulted in the recovery of 305 gms. of heroine from the bag carried by the petitioner and 405 gms of heroine from Ismayil. In the statement of the petitioner recorded under Sec. 67 of the N.D.P.S. Act he confessed that the narcotic drug was procured from Rajasthan.

2. Adv. Sri. C.P. Udayabhanu appearing on behalf of N.C.B. opposed the application.

3. It is too early to conclude that the recovery of the narcotic drug amounting to commercial quantity was not from the personal

baggage of the petitioner and that the statement of the petitioner recorded under Sec. 67 of the N.D.P.S. Act is hit by sec. 25 of the Evidence Act as it was made in the presence of a police constable. I am not satisfied that both the grounds enumerated under Sec. 37(b) (ii) of the N.D.P.S. Act are present in this case so as to justify the release of the petitioner on bail.

4. This application is accordingly dismissed.

5. Pursuant to a statement made by the petitioner that the Addl. Sessions Court (Adhoc-I), Kasaragod where the case is pending as S.C. 205/2006 was not invested with the jurisdiction to try cases under the N.D.P.S. Act, the matter was inquired into and it has been confirmed that the Adhoc court is also duly notified to try cases under the N.D.P.S. Act. The said court shall ensure that the case is taken up for trial and the trial is completed without unavoidable delay.

Forward a copy of this order to the said Court for information and compliance.

V. RAMKUMAR,
(JUDGE)

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